

House File 2109

H-8009

1 Amend House File 2109 as follows:

2 1. Page 1, before line 1 by inserting:

3 <Section 1. Section 142A.6, subsection 6, paragraph

4 d, Code 2014, is amended to read as follows:

5 d. For the purpose of this subsection,

6 manufacturer, distributor, wholesaler, retailer, and

7 distributing agent mean as defined in section 453A.1

8 or 453A.42.

9 Sec. 2. Section 232C.4, subsection 3, Code 2014, is
10 amended to read as follows:

11 3. An emancipated minor shall remain subject
12 to voting restrictions under chapter 48A, gambling
13 restrictions under chapter 99B, 99D, 99F, 99G, or 725,
14 alcohol restrictions under chapter 123, compulsory
15 attendance requirements under chapter 299, and
16 cigarette tobacco, tobacco products, alternative
17 nicotine products, vapor products, and cigarette
18 restrictions under chapter 453A.

19 Sec. 3. Section 321.216C, Code 2014, is amended to
20 read as follows:

21 321.216C Use of driver's license or nonoperator's
22 identification card by underage person to obtain
23 cigarettes or tobacco, tobacco products, alternative
24 nicotine products, vapor products, or cigarettes.

25 A person who is under the age of eighteen, who
26 alters or displays or has in the person's possession
27 a fictitious or fraudulently altered driver's license
28 or nonoperator's identification card and who uses
29 the license or card to violate or attempt to violate
30 section 453A.2, subsection 2, commits a simple
31 misdemeanor punishable as a scheduled violation under
32 section 805.8A, subsection 4. The court shall forward
33 a copy of the conviction to the department.>

34 2. Page 1, by striking lines 1 and 2 and inserting:

35 <Sec. _____. Section 453A.1, subsections 19 and 21,
36 Code 2014, are amended to read as follows:

37 19. "*Place of business*" is construed to mean
38 and include any place where cigarettes, alternative
39 nicotine products, or vapor products are sold or where
40 cigarettes, alternative nicotine products, or vapor
41 products are stored within or without the state of
42 Iowa by the holder of an Iowa permit or kept for the
43 purpose of sale or consumption; or if sold from any
44 vehicle or train, the vehicle or train on which or from
45 which such cigarettes, alternative nicotine products,
46 or vapor products are sold shall constitute a place of
47 business.>

48 3. Page 1, line 16, by striking <regulated> and
49 inserting <approved>

50 4. Page 1, line 18, after <Act> by inserting <for

1 sale as a tobacco cessation product that is being
2 marketed and sold solely for the approved purpose>

3 5. Page 1, line 26, by striking <regulated> and
4 inserting <approved>

5 6. Page 1, line 28, after <Act> by inserting <for
6 sale as a tobacco cessation product that is being
7 marketed and sold solely for the approved purpose>

8 7. Page 2, by striking line 13 and inserting
9 <cigarettes or tobacco, tobacco products, alternative
10 nicotine products, vapor products, or cigarettes.>

11 8. Page 4, after line 6 by inserting:

12 <Sec. ____ . Section 453A.13, subsection 1, Code
13 2014, is amended to read as follows:

14 1. *Permits required.* Every distributor,
15 wholesaler, cigarette vendor, and retailer, now engaged
16 or who desires to become engaged in the sale or use of
17 cigarettes, upon which a tax is required to be paid,
18 and every retailer now engaged or who desires to become
19 engaged in selling, offering for sale, or distributing
20 alternative nicotine products or vapor products
21 shall obtain a state or retail cigarette permit as a
22 distributor, wholesaler, cigarette vendor, or retailer,
23 as the case may be.

24 Sec. ____ . Section 453A.13, subsection 2, paragraph
25 a, Code 2014, is amended to read as follows:

26 a. The department shall issue state permits to
27 distributors, wholesalers, and cigarette vendors
28 subject to the conditions provided in this division.
29 Cities may issue retail permits to ~~dealers~~ retailers
30 within their respective limits. County boards of
31 supervisors may issue retail permits to ~~dealers~~
32 retailers in their respective counties, outside of the
33 corporate limits of cities.

34 Sec. ____ . Section 453A.13, subsections 6, 9, and
35 10, Code 2014, are amended to read as follows:

36 6. *No sales without permit.* ~~No~~ A distributor,
37 wholesaler, cigarette vendor, or retailer shall not
38 sell any cigarettes, alternative nicotine products, or
39 vapor products until such application has been filed
40 and the fee prescribed paid for a permit and until
41 such permit is obtained and only while such permit is
42 unrevoked and unexpired.

43 9. *Permit — form and contents.* Each permit issued
44 shall describe clearly the place of business for which
45 it is issued, shall be nonassignable, consecutively
46 numbered, designating the kind of permit, and shall
47 authorize the sale of cigarettes, alternative nicotine
48 products, or vapor products in this state subject to
49 the limitations and restrictions herein contained. The
50 retail permits shall be upon forms furnished by the

1 department or on forms made available or approved by
2 the department.

3 10. *Permit displayed.* The permit shall, at all
4 times, be publicly displayed by the distributor,
5 wholesaler, or retailer at the place of business so
6 as to be easily seen by the public and the persons
7 authorized to inspect the place of business. The
8 proprietor or keeper of any building or place where
9 cigarettes and other, alternative nicotine products,
10 vapor products, or tobacco products are kept for sale,
11 or with intent to sell, shall upon request of any agent
12 of the department or any peace officer exhibit the
13 permit. A refusal or failure to exhibit the permit is
14 prima facie evidence that the cigarettes, alternative
15 nicotine products, vapor products, tobacco, or other
16 tobacco products are kept for sale or with intent to
17 sell in violation of this division.

18 Sec. _____. Section 453A.15, subsection 4, Code 2014,
19 is amended to read as follows:

20 4. Every permit holder or other person shall, when
21 requested by the department, make additional reports as
22 the department deems necessary and proper and shall at
23 the request of the department furnish full and complete
24 information pertaining to any transaction of the permit
25 holder or other person involving the purchase or sale
26 or use of cigarettes, alternative nicotine products, or
27 vapor products, tobacco, or the purchase of cigarette
28 stamps.>

29 9. Page 4, by striking lines 7 and 8 and inserting:

30 <Sec. _____. Section 453A.36, subsections 6, 7, and
31 11, Code 2014, are amended to read as follows:

32 6. Any sales of ~~eigarettes or tobacco,~~ tobacco
33 products, alternative nicotine products, vapor products
34 or cigarettes made through a cigarette vending machine
35 are subject to rules and penalties relative to retail
36 sales of ~~eigarettes and tobacco,~~ tobacco products,
37 alternative nicotine products, vapor products and
38 cigarettes provided for in this chapter. Cigarettes
39 shall not be sold through any cigarette vending machine
40 unless the cigarettes have been properly stamped or
41 metered as provided by this division, and in case
42 of violation of this provision, the permit of the
43 dealer authorizing retail sales of cigarettes shall
44 be revoked. Payment of the permit fee as provided in
45 section 453A.13 authorizes a cigarette vendor to sell
46 ~~eigarettes or tobacco,~~ tobacco products, alternative
47 nicotine products, vapor products and cigarettes
48 through vending machines. However, ~~eigarettes or~~
49 ~~tobacco, tobacco products, alternative nicotine~~
50 products, vapor products and cigarettes shall not

1 be sold through a vending machine unless the vending
2 machine is located in a place where the retailer
3 ensures that no person younger than eighteen years
4 of age is present or permitted to enter at any time.
5 Cigarettes or Tobacco, tobacco products, alternative
6 nicotine products, vapor products and cigarettes shall
7 not be sold through any cigarette vending machine if
8 such products are placed together with any nontobacco
9 product, other than matches, in the cigarette vending
10 machine. This section does not require a retail permit
11 holder to buy a cigarette vendor's permit if the retail
12 permit holder is in fact the owner of the cigarette
13 vending machines and the machines are operated in the
14 location described in the retail permit.>

15 10. Page 4, line 11, by striking <permit, as
16 applicable,> and inserting <permit>

17 11. Page 4, after line 18 by inserting:

18 <11. Violation of this section by the holder
19 of a retailer's, distributor's, wholesaler's or
20 manufacturer's permit shall be grounds for the
21 revocation of such permit.>

22 12. Page 5, by striking lines 29 and 30 and
23 inserting:

24 <Sec. _____. Section 453A.42, subsections 1, 2, 8, 9,
25 10, 11, 13, and 16, Code 2014, are amended to read as
26 follows:

27 1. "Business" means any trade, occupation,
28 activity, or enterprise engaged in for the purpose of
29 selling or distributing tobacco, tobacco products,
30 alternative nicotine products, or vapor products in
31 this state.

32 2. "Consumer" means any person who has title to or
33 possession of tobacco, tobacco products, alternative
34 nicotine products, or vapor products in storage, for
35 use or other consumption in this state.

36 8. "Place of business" means any place where
37 tobacco, tobacco products, alternative nicotine
38 products, or vapor products are sold or where tobacco,
39 tobacco products, alternative nicotine products, or
40 vapor products are manufactured, stored, or kept for
41 the purpose of sale or consumption, including any
42 vessel, vehicle, airplane, train, or vending machine.

43 9. "Retail outlet" means each place of business
44 from which tobacco, tobacco products, alternative
45 nicotine products, or vapor products are sold to
46 consumers.>

47 13. Page 5, after line 33 by inserting:

48 <11. "Sale" means any transfer, exchange, or
49 barter, in any manner or by any means whatsoever, for a
50 consideration, and includes and means all sales made

1 by any person. It includes a gift by a person engaged
2 in the business of selling tobacco, tobacco products,
3 alternative nicotine products, or vapor products, for
4 advertising, as a means of evading the provisions of
5 this division, or for any other purposes whatsoever.

6 13. "Storage" means any keeping or retention
7 of tobacco, tobacco products, alternative nicotine
8 products, or vapor products for use or consumption in
9 this state.

10 16. "Use" means the exercise of any right or
11 power incidental to the ownership of tobacco, tobacco
12 products, alternative nicotine products, or vapor
13 products.

14 Sec. _____. Section 453A.45, subsection 3, Code 2014,
15 is amended to read as follows:

16 3. Every retailer and subjobber shall procure
17 itemized invoices of all tobacco, tobacco products,
18 alternative nicotine products, and vapor products
19 purchased. The invoices shall show the name and
20 address of the seller and the date of purchase. The
21 retailer and subjobber shall preserve a legible copy
22 of each invoice for three years from the date of
23 purchase. Invoices shall be available for inspection
24 by the director or the director's authorized agents or
25 employees at the retailer's or subjobber's place of
26 business.

27 Sec. _____. Section 453A.47A, subsections 1, 2, 4, 5,
28 and 10, Code 2014, are amended to read as follows:

29 1. *Permits required.* A person shall not engage
30 in the business of a retailer of tobacco, tobacco
31 products, alternative nicotine products, or vapor
32 products at any place of business without first having
33 received a permit as a ~~tobacco products~~ retailer.

34 2. *No sales without permit.* A retailer shall
35 not sell any tobacco, tobacco products, alternative
36 nicotine products, or vapor products, until an
37 application has been filed and the fee prescribed paid
38 for a permit and until such permit is obtained and
39 only while such permit is not suspended, unrevoked, or
40 unexpired.

41 4. *Retailer — cigarettes and tobacco, tobacco*
42 *products, alternative nicotine products, and vapor*
43 *products.* A retailer, as defined in section 453A.1,
44 who holds a permit under division I of this chapter
45 is not required to also obtain a retail permit under
46 this division. However, if a retailer, as defined in
47 section 453A.1, only holds a permit under division I
48 of this chapter and that permit is suspended, revoked,
49 or expired, the retailer shall not sell any ~~cigarettes~~
50 ~~or~~ tobacco, tobacco products, alternative nicotine

1 products, or vapor products, during the time which the
2 permit is suspended, revoked, or expired.

3 5. *Separate permit.* A separate retail permit
4 shall be required of a distributor or subjobber if
5 the distributor or subjobber sells tobacco, tobacco
6 products, alternative nicotine products, or vapor
7 products at retail.

8 10. *Records and reports of retailers.*

9 a. The director shall prescribe the forms necessary
10 for the efficient administration of this section
11 and may require uniform books and records to be used
12 and kept by each retailer or other person as deemed
13 necessary.

14 b. Every retailer shall, when requested by the
15 department, make additional reports as the department
16 deems necessary and proper and shall at the request of
17 the department furnish full and complete information
18 pertaining to any transaction of the retailer involving
19 the purchase or sale or use of tobacco, tobacco
20 products, alternative nicotine products, or vapor
21 products.>

22 14. By renumbering as necessary.

MEYER of Polk

T. OLSON of Linn

ABDUL-SAMAD of Polk

BERRY of Black Hawk

GAINES of Polk

GASKILL of Wapello

HALL of Woodbury

HANSON of Jefferson

HEDDENS of Story

JACOBY of Johnson

KEARNS of Lee

KELLEY of Jasper

LENSING of Johnson

MASCHER of Johnson

H. MILLER of Webster

OLDSON of Polk

RUFF of Clayton

STAED of Linn

STECKMAN of Cerro Gordo